



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/808,172

03/23/2004

Alexander M. Scholte

4366-144

4816

48500 7590 02/13/2008
SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

EXAMINER

RIYAMI, ABDULLA A

ART UNIT

PAPER NUMBER

2616

MAIL DATE

DELIVERY MODE

02/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/808,172	Applicant(s) SCHOLTE, ALEXANDER M.	
	Examiner Abdullah Riyami	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to an amendment/response filed on 11/20/2007.
2. Claims 1, 11, 17, 22 and 24 have been amended.
3. No claims have been added.
4. Claims 1-29 remain pending in the application.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1-3 and 5-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Kano et al. (US 6453349 B1).

As per claim 1, Kano et al. discloses a method of establishing a communication channel using protected network resources (see abstract and figure 11), comprising: creating a first data packet requesting a reservation of network resources (see figure 11, step 1) and containing a first object comprising a connection request (see TCP and REQ, column 10, lines 1-11); sending the first data packet requesting a reservation of network resources and containing a first object comprising a connection request from a first communication endpoint across a network to a second communication endpoint (see column 10, lines 11-54 and figure 11, terminal 3 (step 1) to terminal 1 (step3)); determining whether both said requested reservation of network resources and said

requested connection are acceptable;

in response to determining that both said requested reservation of network resources and said requested connection are acceptable (see column 1, line 42-column2, line 50, columns 3-5 and 10),

creating a second data packet related to the request for network resources (see figure 11, step 3) and containing a resource reservation message and containing a second object comprising a first connection request acknowledgment (see TCP and REQ, column 10, lines 1-11, and figure 11, step 3); sending the second data packet (see figure 11, step 3) said resource reservation message and containing said second object comprising a first connection request acknowledgment from the second communication endpoint to the first communication endpoint (see column 10, lines 11-54 and figure 11, terminal 1 to terminal 3); determining at said first communication endpoint whether said resource reservation message and said first connection request acknowledgment received from said second communication endpoint are acceptable;

in response to determining that both said resource reservation message and said first connection request acknowledgment received from said second communication endpoint are acceptable (see column 1, line 42-column2, line 50, columns 3-5 and 10), creating a third data packet confirming the reservation of network resources (see figure 11, step 5) and containing a third object comprising a second connection request acknowledgment (see figure 11, step 5) ; and sending (see column 5, lines 32-55) the third data packet from the first communication endpoint to the second communication endpoint (see column 5, lines 32-55).

As per claim 2, Kano et al. discloses a method of establishing a communication channel using protected network resources (see abstract and figure 11), wherein the first data packet comprises an RSVP path message (see column 6, lines 25-35 and see figure 11, step 1), the second data packet comprises an RSVP reservation message (see column 6, lines 25-35 and see figure 11, step 3), and the third packet comprises an RSVP confirm message (see column 6, lines 25-35 and see figure 11, step 5).

As per claim 3, Kano et al. discloses a method of establishing a communication channel using protected network resources (see abstract and figure 11), wherein the first, second and third objects comprise transmission control protocol messages (see TCP, column 10, lines 1-11).

As per claim 5, Kano et al. discloses a method of establishing a communication channel using protected network resources (see abstract and figure 11), further comprising: receiving the first packet at a first network node (see relaying node 2b or 2a, figure 11) intermediate to the first and second communication endpoints, the first network node: acting on the request for a reservation of network resources; and ignoring the first object (see column 3, lines 38-41 and figure 1, block 6 and block 7).

As per claim 6, Kano et al. discloses a method of establishing a communication channel using protected network resources (see abstract and figure 11), further comprising: receiving the second packet at at least one of the first network node and a second network node (see relaying node 2b or 2a, figure 11), the at least one network node: acting on the resource reservation message; and ignoring the second object (see column 3, lines 38-41 and figure 1, block 6 and block 7).

As per claim 7, Kano et al. discloses a method of establishing a communication channel using protected network resources (see abstract and figure 11), further comprising: receiving the third packet at at least one of the first network node and the second network node (see relaying node 2b or 2a, figure 11), the at least one network node: acting on the reservation confirmation message; and ignoring the third object (see column 3, lines 38-41 and figure 1, block 6 and block 7).

As per claim 8, Kano et al. discloses a method of establishing a communication channel using protected network resources (see abstract and figure 11), further comprising: sending data across the reserved network resources between the first and second communication endpoints (see figure 1 and figure 11).

As per claim 9, Kano et al. discloses a method of establishing a communication channel using protected network resources (see abstract and figure 11), wherein the first communication endpoint comprises one of a telephony device and a general-purpose computer (see column 1, lines 10-15).

As per claim 10, Kano et al. discloses a method of establishing a communication channel using protected network resources (see abstract and figure 11), wherein the network node comprises one of a router or gateway (see routing table, column 3, lines 30-37).

As per claim 11, Kano et al. discloses a computational component (see figure 1, processing unit) for performing a method, the method comprising: creating at a first communication endpoint, a first data packet requesting a reservation of network resources (see figure 11, step 1) and containing a first object comprising a connection

request (see TCP and REQ, column 10, lines 1-11); sending the first data packet across a network (see column 10, lines 11-54 and figure 11, terminal 3 (step 1) to terminal 1 (step3)); receiving at said first communication endpoint (see figure 11, from terminal 1 to terminal 3) a second data packet related to the request for network resources (see figure 11, step 3) and containing a second object comprising a connection request acknowledgment (see TCP and REQ, column 10, lines 1-11, and figure 11, step 3) and creating at said first communication endpoint a third data packet confirming (see column 5, lines 32-55) the reservation of network resources (see figure 11, step 5) and containing a third object comprising a second connection request acknowledgment (see figure 11, step 5), sending said third data packet across the network (see column 5, lines 42-55).

As per claim 12, Kano et al. discloses a method (see abstract and figure 11), further comprising: sending data across the reserved network resources between the first and second communication endpoints (see figure 1 and figure 11).

As per claim 13, Kano et al. discloses a method (see abstract and figure 11), wherein the objects comprise one of transmission control protocol and session initiation protocol objects (see TCP, column 10, lines 1-11).

As per claim 14, Kano et al. discloses a method (see abstract and figure 11), wherein the data packets comprise one of resource reservation protocol, resource reservation protocol traffic engineering, and CR- LDP reservation messages (see column 6, lines 25-35).

As per claim 15, Kano et al. discloses a method (see abstract and figure 11), wherein the computational component comprises a computer readable storage medium (see figure 1) for performing the method.

As per claim 16, Kano et al. discloses a method (see abstract and figure 11), wherein the computational component comprises a logic circuit (see figure 1).

As per claim 17, Kano et al. discloses a system for establishing a communication channel using reserved network resources (see abstract and figure 11), comprising: a first communication endpoint means (see figure 11, step 1); and communication network means interconnected (see figure 1 and figure 11) to the first communication endpoint means, wherein the communication endpoint means transmits at least a first data packet, wherein said at least a first data packet comprises a means for requesting a reservation of network resources (see figure 11, step 1) and at least a first object comprising signaling means for establishing a communication channel between communication endpoints (see TCP and REQ, column 10, lines 1-11).

As per claim 18, Kano et al. discloses a system for establishing a communication channel using reserved network resources (see abstract and figure 11), further comprising: second communication endpoint means interconnected to the communication network means (see figure 1 and figure 11).

As per claim 19, Kano et al. discloses a system for establishing a communication channel using reserved network resources (see abstract and figure 11) further comprising: means for routing data packets (see relaying node 2b or 2a, figure 11), wherein at least a first action is taken in response to receiving the means for requesting

a reservation of network resources (see column 3, lines 38-41 and figure 1, block 6 and block 7), and wherein the means for establishing a communication channel between communication endpoints is ignored (see column 3, lines 38-41 and figure 1, block 6 and block 7).

As per claim 20, Kano et al. discloses a data packet (see column 3, lines 17-19) comprising: a network resource reservation protocol object (see figure 11, step 1); and a communication protocol object (see TCP and REQ, column 10, lines 1-11).

As per claim 21, Kano et al. discloses a data packet (see column 3, lines 17-19), wherein the reservation protocol object comprises an RSVP message (see column 6, lines 25-35).

As per claim 22, Kano et al. discloses a data packet (see column 3, lines 17-19), wherein the communication protocol object comprises one of a TCP, SCTP and SIP protocol message (see TCP, column 10, and lines 1-11).

As per claim 23, Kano et al. discloses a data packet (see column 3, lines 17-19), wherein the communication protocol object is embedded in the network resource reservation protocol object (see TCP, column 10, lines 1-11 and figure 11).

As per claim 24, Kano et al. discloses a computational component (see figure 1, processing unit) for performing a method, the method comprising: receiving at a communication endpoint (see figure 11, from terminal 3 to terminal 1) a first data packet requesting a reservation of network resources (see figure 11, step 3) and containing a first object comprising a connection request (see TCP and REQ, column 10, lines 1-11); creating at said communication endpoint a second data packet related to said request

for network resources (see figure 11, step 3) and containing a second object comprising a connection request acknowledgment (see TCP and REQ, column 10, lines 1-11); and receiving at said communication endpoint a third data packet confirming (see column 5, lines 32-55) said reservation of network resources and containing a third object comprising a second connection request acknowledgment (see figure 11, step 5).

As per claim 25, Kano et al. discloses a computational component (see figure 1, processing unit) for performing a method, the method comprising: sending data using the reserved network resources (see figure 1 and figure 11).

As per claim 26, Kano et al. discloses a computational component (see figure 1, processing unit) for performing a method, wherein the objects comprise one of transmission control protocol and session initiation protocol objects (see TCP, column 10, lines 1-11).

As per claim 27, Kano et al. discloses a computational component (see figure 1, processing unit) for performing a method, wherein said data packets comprise one of resource reservation protocol, resource reservation protocol traffic engineering, and CR-LDP reservation messages (see column 6, lines 25-35).

As per claim 28, Kano et al. discloses a computational component (see figure 1, processing unit) for performing a method, wherein the computational component comprises a computer readable storage medium (see figure 1) for performing the method.

As per claim 29, Kano et al. discloses a computational component (see figure 1, processing unit) for performing a method, wherein the computational component comprises a logic circuit (see figure 1).

Claim Rejections - 35 USC § 103

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kano et al. (US 6453349 B1) in view of Schneider et al. (US 2006/0114889 A1).

As per claim 4, Kano et al. discloses a method of establishing a communication channel using protected network resources (see abstract and figure 11), but does not expressly disclose the first, second and third objects comprising session initiation protocol messages.

Schneider et al. discloses the first, second and third objects comprising session initiation protocol messages (see paragraph 30).

Kano et al. and Schneider et al. are analogous art because they are from the same field of endeavor of bandwidth reservation between network devices in a network.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Schneider et al.'s SIP messages (see paragraph 30) in Kano et al.'s the first, second and third objects.

The motivation to combine would have been to have a method to control access to a communications network by enforcing service policies that define the capabilities and resources available to the users (also determining whether a service request succeeds or fails). Thus, having a method whereby separate protocols are used together to setup and maintain internet communications having an acceptable quality of service (QOS).

Response to Arguments

Applicant's arguments filed 11/20/2007 have been fully considered but they are not persuasive. Applicant argues that prior art fails to teach "the reserve resources made by the receiving terminal cannot contain a connection request". Examiner respectfully disagrees with Applicant's characterization of the prior art. The reference does teach the reserve resources made by the receiving terminal containing a connection request (to better understand examiners characterization, see column 1, lines 48-60, and column 3, lines 4-13). Receiving terminal does and can initiate reservation request and connection. Applicant argues that one of ordinary skill in the art would not arrive at the claimed invention when presented with these references. Examiner respectfully disagrees with Applicant's characterization. The motivation would have been to have a method and system whereby separate protocols are used together to setup and maintain internet communications having an acceptable quality of service (QOS).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form 892.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdullah Riyami whose telephone number is (571) 270-3119. The examiner can normally be reached on Monday through Thursday 8am-5pm EST.

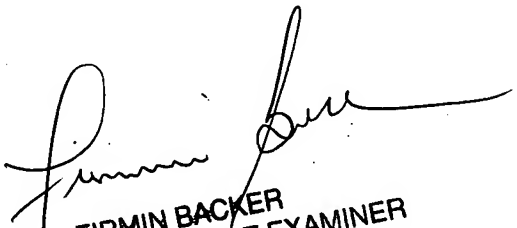
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571)272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/808,172
Art Unit: 2616

Page 14

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AR



FIRMIN BACKER
SUPERVISORY PATENT EXAMINER